

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

UNITED STATES OF AMERICA and
the STATE OF INDIANA,

Plaintiffs,

v.

GUIDE CORPORATION and
CROWN EG, INCORPORATED
(d/b/a Crown Environmental Group),

Defendants.

CIVIL ACTION NO. IP-00-0702-C-D/F

CONSENT DECREE WITH GUIDE CORPORATION

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I. BACKGROUND

A. The United States of America (the “United States”) and the State of Indiana (the “State”) (collectively the “Plaintiffs”) brought claims in this now-consolidated action in April 2000 alleging violations of federal and state law and injury to natural resources associated with a massive fish kill in the White River. The Plaintiffs allege that over a period of several weeks beginning in December 1999, toxic wastewater discharged from an automotive parts production facility located in Anderson, Indiana killed more than 100 tons of fish and other aquatic and riparian organisms along more than 40 miles of the White River from the City of Anderson past downtown Indianapolis, Indiana. The Plaintiffs allege that the facility in question (the “Facility,” as defined below) was operated by Defendant Guide Corporation (“Guide”) and one of its contractors.

B. The United States has filed a Complaint and an Amended Complaint in this matter asserting claims against the Defendants on behalf of the Administrator of the United States Environmental Protection Agency (“EPA”). The United States’ Amended Complaint seeks civil penalties, injunctive relief, and natural resource damages pursuant to: (i) the Clean Water Act (the “CWA”), 33 U.S.C. § 1251 et seq.; (ii) the Resource Conservation and Recovery Act (“RCRA”), 42 U.S.C. § 6901 et seq.; and (iii) the release reporting provisions of Section 103 of the Comprehensive Environmental Response, Compensation, and Liability Act, (“CERCLA”), 42 U.S.C. § 9603, and Section 304 of the Emergency Planning and Community Right-to-Know Act (“EPCRA”), 42 U.S.C. § 11004.

C. The State has filed a Complaint and an Amended Complaint asserting claims against

the Defendants on behalf of the Indiana Department of Environmental Management (“IDEM”) and the Indiana Department of Natural Resources (“IDNR”). The State’s Amended Complaint seeks civil penalties, injunctive relief, natural resource damages, and recovery of response costs pursuant to: (i) the CWA and corresponding state law; (ii) RCRA and corresponding state law; (iii) the natural resource damage provisions of CERCLA Section 107, CWA Section 311(f), and corresponding state law; (iv) the response cost recovery provisions of CERCLA Section 107 and corresponding state law; and (v) state common law.

D. CERCLA Section 107 provides that liability shall be to the United States and to the State for damages for injury to, destruction of, or loss of natural resources belonging to, managed by, held in trust by, controlled by or appertaining to the United States or the State resulting from the release of hazardous substances. The U.S. Department of the Interior, IDEM, and IDNR are the federal and state trustees (collectively the “Trustees”) for natural resources at and near the White River, and have assessed the injuries to natural resources resulting from the release of hazardous substances from the Facility to the White River in December 1999. The categories of losses assessed by the Trustees include, but are not limited to, loss of fish and other aquatic and riparian organisms, lost fishing recreation, and lost non-fishing recreation.

E. This Consent Decree sets forth the terms of a civil settlement between the United States, the State, and Guide. To the extent provided by this Consent Decree, certain specified benefits of the settlement also extend to four non-defendants, as Additional Covered Persons, namely: Lightsource Parent Corporation (Guide’s parent corporation), Vehicle Lighting, Inc. (the parent corporation of Lightsource Parent Corporation), Guide Indiana, LLC (a Guide affiliate and the

Facility's lessee), and General Motors Corporation (the owner of the Facility).

F. The settlement set forth in this Consent Decree will, among other things, provide the following benefits.

(i) The settlement will establish two "White River Restoration Funds" that will be funded with a total of \$6 million to pay for ongoing efforts to restock the White River with fish and for performance of projects designed to restore natural resources and rehabilitate the White River, thereby enhancing its quality and its value for conservation and recreational purposes. The \$6 million to be paid into the Funds will finance White River fish restocking efforts and river monitoring efforts planned by the State, and will also finance restoration projects which are expected to yield conservation- and recreation-related benefits that would be valued at substantially more than the \$6 million to be paid into the Funds.

(ii) The settlement will provide for reimbursement of more than \$2 million that the responsible agencies expended in responding to and assessing the impact of the White River Fish Kill, including reimbursing attorney fees and litigation costs paid by the State and costs of IDEM and IDNR staff time devoted by State employees.

(iii) Finally, the settlement will provide for payment of a \$2 million civil penalty by Guide.

G. In early 2000, the United States Attorney for the Southern District of Indiana announced that the U.S. Attorney's Office was involved in an ongoing criminal investigation relating to the White River Fish Kill. Guide has entered into a separate criminal plea agreement with the U.S. Attorney's Office addressing the company's alleged criminal liability under the Clean Water Act. As

provided by that criminal plea agreement, Guide has agreed to plead guilty to multiple counts of negligent violation of the Clean Water Act in December 1999. Pursuant to that plea agreement, Guide will pay a \$1,956,000 criminal fine. Pursuant to a separate civil settlement agreement, Guide will pay an additional \$1,956,000 in settlement of a civil asset forfeiture cause of action.

H. The parties to this Consent Decree recognize, and the Court by entering this Consent Decree finds, that this Consent Decree has been negotiated by the parties in good faith, that implementation of this Consent Decree will avoid prolonged and complicated litigation between the parties, and that this Consent Decree is fair, reasonable, consistent with applicable law, and in the public interest.

NOW, THEREFORE, it is hereby Ordered, Adjudged, and Decreed:

II. JURISDICTION AND VENUE

1. This Court has jurisdiction over the subject matter of this action pursuant to CWA Section 309(b), 33 U.S.C. § 1319(b), RCRA Section 3008(a), 42 U.S.C. § 6928(a), CERCLA Sections 109(c) and 113(b), 42 U.S.C. § 9609(c) and § 9613(b), EPCRA Section 325(b), 42 U.S.C. § 11045(b)(3), and 28 U.S.C. §§ 1331, 1345 and 1355. This Court also has personal jurisdiction over Guide. Venue is proper in this District pursuant to CWA Section 309(b), 33 U.S.C. § 1319(b), RCRA Section 3008(a), 42 U.S.C. § 6928(a); CERCLA Section 113(b), 42 U.S.C. § 9613(b), EPCRA Section 325(b)(3), 42 U.S.C. § 11045(b)(3), and 28 U.S.C. § 1391(b) and (c).

2. Solely for the purposes of this Consent Decree and the underlying Complaints, Guide waives all objections and defenses that it may have to jurisdiction of the Court or to venue in this District. Guide shall not challenge the terms of this Consent Decree or this Court's jurisdiction to enter

and enforce this Consent Decree.

III. PARTIES BOUND

3. This Consent Decree applies to and is binding upon the United States and the State, and upon Guide, acting through its officers, directors, employees and agents acting in their capacities as such, and upon Guide's successors and assigns. To the extent provided by Fed. R. Civ. P. 65(d), the injunctive relief provisions of this Consent Decree are binding upon Guide's officers, agents, servants, and employees, and are binding upon those parties in active concert or participation with Guide and its officers, agents, servants or employees who receive actual notice of this Consent Decree with respect to all matters related to the performance of this Consent Decree. In any action to enforce the terms of this Consent Decree, Guide shall not raise as a defense the failure of its officers, directors, agents, servants, contractors, or employees or any other persons or entities provided for by Fed. R. Civ. P. 65(d) to take any actions necessary to comply with the provisions of this Consent Decree.

4. No change in the leasehold status or ownership of the Facility (or any portion thereof) shall in any way alter Guide's obligations or rights under this Consent Decree. Similarly, no change in corporate status or ownership of Guide shall in any way alter Guide's obligations or rights under this Consent Decree.

IV. DEFINITIONS

5. Unless otherwise expressly provided herein, terms used in this Consent Decree which are defined in the CWA, RCRA, CERCLA or EPCRA, or in regulations promulgated thereunder, shall have the meanings assigned to them in such definitions. In addition, the following definitions shall apply to the terms used in this Consent Decree:

“Additional Covered Persons” means Lightsource Parent Corporation, Vehicle Lighting, Inc., Guide Indiana, LLC, and General Motors Corporation.

“CERCLA” means the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C. § 9601 et seq.

“Complaints” means the United States’ Amended Complaint and the State’s Amended Complaint in this action.

“Compliance Audit Program” means the tasks specified by Paragraph 12.

“Consent Decree” means this Consent Decree with Guide Corporation.

“Covered Natural Resource Damages” means Natural Resource Damages that are alleged to have resulted or that could have resulted from releases of hazardous substances discharged from the wastewater treatment plant at the Facility that occurred in December 1999 and/or January 2000, including but not limited to Natural Resource Damages sought in the State NRD Claim.

“CWA” means the Federal Water Pollution Control Act, as amended, 33 U.S.C. § 1251 et seq., also known as the Clean Water Act.

“Day” means a calendar day unless expressly stated to be a Working Day. “Working day” shall mean a day other than a Saturday, Sunday, or Federal holiday. In computing any period of time under this Consent Decree, where the last day would fall on a Saturday, Sunday, or Federal holiday, the period shall run until the close of business of the next working day.

“DOI” means the United States Department of the Interior and any successor departments or agencies of the United States.

“DOI Assessment Costs” means all costs that DOI has paid or may pay in the future in

connection with the assessment of the Covered Natural Resource Damages.

“Effective Date” means the effective date of this Consent Decree as provided by Section XV (Effective Date and Retention of Jurisdiction) of this Consent Decree.

“EPA” means the United States Environmental Protection Agency and any successor departments or agencies of the United States.

“EPCRA” means the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. § 11001 et seq.

“Facility” means the facility located at 2915 Pendleton Avenue in Anderson, Indiana, which is leased by a Guide affiliate (Guide Indiana, LLC) and owned by General Motors Corporation, including the Facility WWTP.

“Facility WWTP” means the wastewater treatment plant at the Facility.

“Guide” means Defendant Guide Corporation.

“Hazardous waste” means any solid waste that is classified as a hazardous waste under 40 C.F.R. Part 261, Subparts C and D.

“IDEM” means the Indiana Department of Environmental Management and any successor departments or agencies of the State of Indiana.

“IDNR” means the Indiana Department of Natural Resources and any successor departments or agencies of the State of Indiana.

“Interest” means interest at the rate specified for a money judgment in a civil case recovered in a district court pursuant to 28 U.S.C. § 1961.

“Lodging Date” means the date on which this Consent Decree is lodged with the Court.

“Natural Resources” means land, resident and anadromous fish, wildlife, biota, air, water, ground water, drinking water supplies, and other such resources, belonging to, managed by, held in trust by, appertaining to, or otherwise controlled by the United States or the State.

“Natural Resource Damages” means damages for injury to, destruction of, or loss and impairment, including diminution in value, of any Natural Resources in the White River Area, as well as the costs of assessing such injury, destruction, or loss arising from or relating to such a release, and each of the categories of recoverable damages described in 43 C.F.R. § 11.15 and applicable state law.

“Other Settled Violations” means the violations alleged in the following claims in the Complaints in this action, through the date of lodging of the Consent Decree: (i) the State’s Fourth Claim for Relief (Unpermitted Discharge); (ii) the State’s Fifth Claim for Relief (Pass Through of Pollutants Through the Anderson POTW); (iv) the State’s Sixth Claim for Relief (Discharge of Pollutants Causing Interference with Anderson POTW); (v) the State’s Seventh Claim for Relief (Violation of Water Quality Standards); (vi) the State’s Eighth Claim for Relief (Failure to Provide Notification of Changes in Production); (vii) the State’s Ninth Claim for Relief (Failure to Provide Notification to, and Obtain Approval From, IDEM and the Anderson POTW for Process and Treatment Changes); (viii) the State’s Tenth Claim for Relief (Failure to Notify Anderson POTW of Changes in the Volume or Character of Pollutants Discharged to the POTW); (ix) the State’s Eleventh Claim for Relief (Failure to Notify Anderson POTW of Discharges That Could Cause Problems for the POTW); (x) the State’s Twelfth Claim for Relief (Failure to Contain Spills, Respond to Spills, and Report Spills to IDEM); (xi) the State’s Thirteenth Claim for Relief (Prohibited Bypass of Clarifier); (xii) the State’s Fourteenth

Claim for Relief (Violation of Guide Wastewater Discharge Permit Limitation for Chromium); (xiii) the State's Fifteenth Claim for Relief (Denial of Access); (xiv) the State's Sixteenth Claim for Relief (Failure to Monitor Flow); (xv) the State's Twenty-First Claim for Relief (Failure to Comply with Hazardous Waste manifesting Requirements); (xvi) the State's Twenty-Second Claim for Relief (Failure to Comply with Land Disposal Restriction Requirements); (xvii) the State's Twenty-Third Claim for Relief (Illegal Storage of Hazardous Waste in the Facility's Electroform Area); (xviii) the States' Twenty-Fourth Claim for Relief (Failure to Make Hazardous Waste Determinations); (xix) the United States' First Claim for Relief (Unauthorized Discharge of Pollutants); (xx) the United States' Second Claim for Relief (Illegal Pass Through of Pollutants Through POTW); (xxi) the United States' Third Claim for Relief (Discharge of Pollutants Causing Interference with POTW); (xxii) the United States' Fourth Claim for Relief (Violation of Prohibitions on Discharges Harmful to Fish and Other Animals); (xxiii) the United States' Fifth Claim for Relief (Failure to Provide Notification of Changes in Production); (xxiv) the United States' Sixth Claim for Relief (Violation of Requirement to Provide Notice of Process Changes, and to Seek a Revised Permit Addressing Such Changes); (xxv) the United States' Seventh Claim for Relief (Violation of Requirements to Provide Notice of and Obtain Approval for Changes in pretreatment Facilities or Methods); (xxvi) the United States' Eighth Claim for Relief (Violation of Requirements to Provide Notice of Changes in the Volume or Character of Pollutants Discharged to the POTW); (xxvii) the United States' Ninth Claim for Relief (Violation of Requirements to Provide Notice of Discharges Which Could Cause Problems to the POTW); (xxviii) the United States' Tenth Claim for Relief (Prohibited Bypass of Clarifier); (xxix) the United States' Eleventh Claim for Relief (Violation of Chromium Discharge Limits); (xxx) the United States' Twelfth

Claim for Relief (Failure to Report Hazardous Substance Releases as Required by CERCLA); (xxxi) the United States' Thirteenth Claim for Relief (Failure to Report Hazardous Substance Releases as Required by EPCRA); (xxxii) the United States' Fourteenth Claim for Relief (Failure to Comply with Hazardous Waste Manifesting Requirements); (xxxiii) the United States' Fifteenth Claim for Relief (Failure to Comply with Land Disposal Restriction Requirements); (xxxiv) the United States' Sixteenth Claim for Relief (Illegal Storage of Hazardous Waste in the Facility's Former Electroform Area); and (xxxv) the United States' Seventeenth Claim for Relief (Failure to Make Hazardous Waste Determinations).

"Paragraph" means a portion of this Consent Decree identified by an arabic numeral or an upper case letter.

"Parties" means the United States, the State, and Guide.

"Plaintiffs" means the United States and the State.

"RCRA" means the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq.

"RISC User's Guide" means IDEM's February 15, 2001 Risk-Integrated System of Closure User's Guide. Section 2.6.1.1 and 2.9.1.2 of the RISC User's Guide are attached as Appendix D to this Consent Decree.

"Section" means a portion of this Consent Decree identified by a roman numeral.

"State" means the State of Indiana.

"State Costs" means the sum of: (i) all response costs that IDEM and IDNR have paid or may pay in the future in responding to releases of hazardous substances discharged from the wastewater treatment plant at the Facility that occurred in December 1999 and/or January 2000; and (ii) all costs

that IDEM and IDNR have paid or may pay in the future in connection with the assessment of the Covered Natural Resource Damages.

“State NRD Claim” means the claim against Guide asserted by the First Claim for Relief (Natural Resource Damages) in the State’s Amended Complaint.

“State Trustees” means IDNR and IDEM.

“Trustees” means DOI, IDNR, and IDEM.

“United States” mean the United States of America.

“White River Area” means the stretch of the West Fork of the White River impacted by the White River Fish Kill that occurred in December 1999 and January 2000, encompassing more than 40 miles from the City of Anderson past downtown Indianapolis, Indiana.

V. PAYMENTS

6. Payments to the United States and the State.

a. Payments by Guide. At least seven days prior to lodging this Consent Decree with the Court, the Plaintiffs shall give Guide written notice of the date on which the Plaintiffs intend to lodge this Consent Decree. After receiving such notice, but before the date of lodging indicated by the Plaintiffs’ notice, Guide shall pay \$10,025,000 into the interest-bearing Court Registry Account of the United States District Court for the Southern District of Indiana. Payment shall be made to the Clerk of the Court by a check made payable to “Clerk, United States District Court,” referencing the case number assigned to this action and Guide’s name. Guide shall send notice that payment has been made in accordance with Section XIII (Notices and Submissions).

b. Payments from the Court Registry Account. After entry of this Consent

Decree, the funds deposited into the Court Registry Account under this Consent Decree (and all accrued interest) shall be disbursed pursuant to a separate Withdrawal Order of the Court, which shall provide for: (i) payment of \$2,000,000 to the State, as a payment toward the State Costs; (ii) payment of \$25,000 to the United States, as a payment toward the DOI Assessment Costs; (iii) payment of \$1,000,000 to the State, as a civil penalty; (iv) payment of an additional \$1,000,000 to the United States, as a civil penalty (with \$400,000 of that amount to be paid as a civil penalty to the EPA Hazardous Substances Superfund); (v) payment of \$3,000,000, plus one-half (1/2) of the accrued interest on all funds deposited into the Court Registry Account under this Consent Decree, to “White River Restoration Fund No. 1,” to be established pursuant to Paragraph 8.a. of this Consent Decree, in settlement of the State NRD Claim; (vi) payment of \$3,000,000 to “White River Restoration Fund No. 2,” to be established pursuant to Paragraph 8.b. of this Consent Decree, in settlement of the State NRD Claim; and (vii) payment of one-half (1/2) of the accrued interest on all funds deposited into the Court Registry Account under this Consent Decree, to Guide. In the event the United States withdraws or withholds consent to this Consent Decree before entry, or the Court declines to enter the Consent Decree, the funds deposited into the Court Registry Account (and all accrued interest) shall be returned to Guide pursuant to a separate Withdrawal Order of the Court.

7. Civil penalties paid pursuant to this Consent Decree shall not be deductible for purposes of federal or state taxes.

VI. RIVER RESTORATION PROJECTS

8. White River Restoration Funds. As provided by Paragraph 6.b, monies paid by Guide in settlement of the State NRD Claim shall be deposited in two White River Restoration Funds.

a. The State Trustees shall be the named beneficiary of an escrow account or trust fund – to be known as the “White River Restoration Fund No. 1” – established to receive monies to be disbursed to that fund under Paragraph 6.b.(v) (Payments from the Court Registry Account) of this Consent Decree. The escrow account or trust fund shall be established either by the State, or by Guide if the State directs Guide to establish the account or fund after this Consent Decree is lodged. All monies paid into White River Restoration Fund No. 1 shall be used by the Trustees jointly, without apportionment or division, to conduct or finance restoration projects designed to restore, replace, or protect natural resources in the White River Area, or natural resources equivalent to the resources that have been injured in the White River Area, and to defray administrative costs and expenses associated with the selection and performance of restoration projects. White River Restoration Fund No. 1 shall be used for projects that are expected to be funded, in whole or in part, within twelve (12) months from the Effective Date of this Consent Decree. The escrow agreement or trust fund agreement establishing the White River Restoration Fund No. 1 shall provide that monies from the Fund shall be used solely for the purposes described in this Paragraph. Any net interest that may be earned on the principal balance of the funds contained in White River Restoration Fund No. 1 (after payment of any administrative expenses charged by the escrow agent or fund manager) shall be deposited in that fund and shall be used by the Trustees for the same purposes as the fund principal.

b. The State Trustees shall be the named beneficiary of an escrow account or trust fund – to be known as the “White River Restoration Fund No. 2” – established to receive monies to be disbursed to that fund under Paragraph 6.b.(vi) (Payments from Court Registry Account) of this Consent Decree. The escrow account or trust fund shall be established by the State, or by Guide if the

State directs Guide to establish the account or fund after this Consent Decree is lodged. All monies paid into White River Restoration Fund No. 2 shall be used by the Trustees jointly, without apportionment or division, to conduct or finance restoration projects designed to restore, replace, or protect natural resources in the White River Area, or natural resources equivalent to the resources that have been injured in the White River Area, and to defray administrative costs and expenses associated with the selection and performance of restoration projects. White River Restoration Fund No. 2 shall be used for projects that are expected to be funded, in whole or in part, at any time following twelve (12) months from the Effective Date of this Consent Decree. The escrow agreement or trust fund agreement establishing the White River Restoration Fund No. 2 shall provide that monies from the Fund shall be used solely for the purposes described in this Paragraph. Any net interest that may be earned on the principal balance of the funds contained in White River Restoration Fund No. 2 (but only for such period as the funds actually remain in White River Restoration Fund No. 2) shall be paid to Guide (after payment of any administrative expenses charged by the escrow agent or fund manager), on at least a quarterly basis. The division of the principal and interest in White River Restoration Fund No. 2 is being done in lieu of Guide making payments over time.

c. All monies in White River Restoration Fund No. 1 shall be used before any monies in White River Restoration Fund No. 2 are used.

d. Nothing contained in this Consent Decree shall create in Guide any right to receive, or legal or equitable interest in: (i) the \$10,025,000 principal amount deposited in the Court Registry Account under Paragraph 6.a (except as specifically provided by the last sentence of Paragraph 6.b), which shall be held in trust for the benefit of the United States and the State pending

approval and entry of this Consent Decree; (ii) the principal balance of White River Restoration Fund No. 1, and any interest that may be earned on the principal balance of the funds contained in White River Restoration Fund No. 1; (iii) the principal balance of White River Restoration Fund No. 2.; or (iv) the right to receive any unaccrued interest earned on the principal balance of White River Restoration Fund No. 2. Furthermore, nothing contained in this Consent Decree shall be deemed to create in Guide any right or interest in the oversight, management, use, or investment of the principal contained in either White River Restoration Fund No. 1 or White River Restoration Fund No. 2.

9. Selection of Restoration Projects. The Trustees will jointly select, with comment from EPA, all restoration projects to be funded with monies from the White River Restoration Funds.

a. Fish Restocking Projects. The Trustees intend to perform fish restocking in the White River as necessary and appropriate.

b. Conservation and Recreational Enhancement Projects. The Trustees have developed an initial list of conservation and natural resource recreational enhancement projects to be performed, which is attached as Appendix A to this Consent Decree. The Trustees intend to select additional conservation and natural resource recreational enhancement projects in the future pursuant to a publicly reviewed restoration plan.

c. Citizens' Advisory Council. The Trustees shall establish a Citizens' Advisory Council to consult with and advise the Trustees on the selection and implementation of restoration projects to be funded with monies from the White River Restoration Funds.

10. The Trustees, pursuant to the authority vested in them under federal law, retain ultimate

authority to select and implement restoration projects to be funded with funds from the White River Restoration Funds. Nothing in this Consent Decree shall be construed as providing Guide or any other person any right to dispute or challenge the selection of restoration projects to be funded with funds from the White River Restoration Funds; provided, however, that nothing in this Consent Decree shall be construed to limit or diminish any right of public comment on a natural resource damage restoration plan, as provided by law.

VII. COMPLIANCE MEASURES

11. Discharge Prohibition. Guide shall not discharge any effluent from the Facility WWTP through the treatment plant effluent channel (as defined by Guide's November 1, 1998 Wastewater Discharge Permit) except in accordance with a new or amended Wastewater Discharge Permit for the Facility (replacing the November 1, 1998 Wastewater Discharge Permit).

12. Compliance Audit Program. Guide shall complete the Compliance Audit Program tasks specified by this Paragraph as expeditiously as reasonably possible, but shall complete all such tasks (other than reporting-related tasks and implementation of any closure plan under Subparagraph 12.d.(3)) no later than three hundred (300) days after the Effective Date of this Consent Decree. During performance of the Compliance Audit Program, by the 15th day of each month after Effective Date of the Consent Decree, Guide shall submit written monthly status reports to the Plaintiffs describing steps taken since the prior monthly status report to comply with this Paragraph. Within forty-five (45) days of completing all tasks required under this Paragraph (other than implementation of any closure plan under Subparagraph 12.d.(3)), or within three hundred forty-five (345) days after the Effective Date of this Consent Decree, whichever is earlier, Guide shall submit a written final report to

Plaintiffs (hereinafter the “Compliance Audit Report”) describing all steps taken to comply with this Paragraph (including reporting the results of all testing and analyses performed under this Paragraph). The Compliance Audit Report shall be deemed accepted by Plaintiffs unless the Plaintiffs, within one hundred eighty (180) days of their receipt of the Compliance Audit Report, reject or disapprove all or part of the Compliance Audit Report pursuant to Paragraph 41 (Review of Submissions). Monthly status reports and the Compliance Audit Report shall be submitted to the Plaintiffs in the manner specified by Section XIII (Notice and Submissions) of this Consent Decree.

a. Audit of Plating Equipment and Plating Equipment Piping. If any solid waste or other residue associated with former plating operations at the Facility (including but not limited to plating bath liquids or residues or plating and process related materials) remains in any piece of the equipment listed in Appendix B to this Consent Decree (hereinafter “Plating Equipment”) or in any piece of piping connecting one component of Plating Equipment to another component of Plating Equipment (hereinafter “Plating Equipment Piping”) as of the Lodging Date, then Guide shall (at Guide’s option) either:

(1) clean and flush the piece of Plating Equipment or Plating Equipment Piping to remove any residue, characterize any residue removed and any rinseate generated in cleaning and flushing in accordance with 40 C.F.R. § 262.11 to determine whether the residue or rinseate constitutes hazardous waste, decontaminate any piece of Plating Equipment or Plating Equipment Piping found to have contained hazardous waste in accordance with IDEM’s RISC User’s Guide Section 2.6.1.1 and the final rinseate standards specified by Section 2.9.1.2, and manage and dispose of any residue and rinseate generated in cleaning, flushing,

and decontaminating in accordance with the applicable requirements of 40 C.F.R. Parts 260 through 268; or

(2) remove any such piece of Plating Equipment or Plating Equipment Piping found to contain hazardous waste or hazardous waste constituents, and manage and dispose of the removed Plating Equipment or Plating Equipment Piping (together with any hazardous waste or hazardous waste constituents contained therein) in accordance with the applicable requirements of 40 C.F.R. Parts 260 through 268.

The Compliance Audit Report shall include a separate section describing all steps taken to comply with this Subparagraph 12.a, which shall list each piece of Plating Equipment or Plating Equipment Piping addressed under this Subparagraph 12.a.

b. Audit of Electroform Equipment and Electroform Equipment Piping. If any solid waste or other residue associated with former electroform operations at the Facility remains in any piece of the equipment listed in Appendix C to this Consent Decree (hereinafter “Electroform Equipment”) or in any piece of piping connecting one component of Electroform Equipment to another component of the Electroform Equipment (hereinafter “Electroform Equipment Piping”) as of the Lodging Date, then Guide shall (at Guide’s option) either:

(1) clean and flush the piece of Electroform Equipment or Electroform Equipment Piping to remove any residue, characterize any residue removed and any rinseate generated in cleaning and flushing in accordance with 40 C.F.R. § 262.11 to determine whether the residue or rinseate constitutes hazardous waste, decontaminate any piece of Electroform Equipment or Electroform Equipment Piping found to have contained hazardous waste in

accordance with IDEM's RISC User's Guide Section 2.6.1.1 and the final rinse standards specified by Section 2.9.1.2, and manage and dispose of any residue and rinse generated in cleaning, flushing, and decontaminating in accordance with the applicable requirements of 40 C.F.R. Parts 260 through 268; or

(2) remove any such piece of Electroform Equipment or Electroform Equipment Piping found to contain hazardous waste or hazardous waste constituents, and manage and dispose of the removed Electroform Equipment or Electroform Equipment Piping (together with any hazardous waste or hazardous waste constituents contained therein) in accordance with the applicable requirements of 40 C.F.R. Parts 260 through 268.

The Compliance Audit Report shall include a separate section describing all steps taken to comply with this Subparagraph 12.b, which shall list each piece of Electroform Equipment or Electroform Equipment Piping addressed under this Subparagraph 12.b.

c. Audit of WWTP Piping. If any solid waste or other residue associated with former plating operations or electroform operations at the Facility remains in any piece of the primary piping leading to the Facility WWTP, any piece of piping or appurtenance leading from Plating Equipment or Electroform Equipment to such primary piping, and any piece of piping which connects to such primary piping prior to its connection to the Facility WWTP (hereinafter the "WWTP Piping") as of the Lodging Date, then Guide shall (at Guide's option) either:

(1) clean and flush the piece of WWTP Piping to remove any residue, characterize any residue removed and any rinse generated in cleaning and flushing in accordance with 40 C.F.R. § 262.11 to determine whether the residue or rinse constitutes

hazardous waste, decontaminate any piece of WWTP Piping found to have contained hazardous waste in accordance with IDEM's RISC User's Guide Section 2.6.1.1 and the final rinseate standards specified by Section 2.9.1.2, and manage and dispose of any residue and rinseate generated in cleaning, flushing, and decontaminating in accordance with the applicable requirements of 40 C.F.R. Parts 260 through 268; or

(2) remove any such WWTP Piping found to contain hazardous waste or hazardous waste constituents, and manage and dispose of the removed WWTP Piping (together with any hazardous waste or hazardous waste constituents contained therein) in accordance with the applicable requirements of 40 C.F.R. Parts 260 through 268.

The Compliance Audit Report shall include a separate section describing all steps taken to comply with this Subparagraph 12.c, which shall list each piece of WWTP Piping addressed under this Subparagraph 12.c.

d. Audit of Electroform Area Trenches and Sumps. Guide shall discontinue any storage of solid waste or other residues associated with former electroform operations at the Facility in any trenches or sumps in the Facility's former electroform areas (hereinafter "Electroform Area Trenches and Sumps").

(1) Guide shall first visually inspect each Electroform Area Trench or Sump to identify any cracks, gaps, spills, stains, or damaged areas, and any cracks, gaps, or damaged areas shall be repaired by grouting or sealing. Guide shall provide IDEM and EPA at least 14 days advance notice of the date on which it will perform such visual inspection(s), in order to afford IDEM and EPA an opportunity to observe the visual inspection(s).

(2) Guide shall then clean and flush the inspected Electroform Area Trench or Sump to remove any residue, characterize any residue removed and any rinseate generated in cleaning and flushing in accordance with 40 C.F.R. § 262.11 to determine whether the residue or rinseate constitutes hazardous waste. Guide shall decontaminate the trench or sump in accordance with IDEM's RISC User's Guide Section 2.6.1.1 and the final rinseate standards specified by Section 2.9.1.2, following the "typical tank decontamination procedure" specified by Section 2.6.1.1. Guide shall manage and dispose of any residue and rinseate generated in cleaning, flushing, and decontaminating in accordance with the applicable requirements of 40 C.F.R. Parts 260 through 268.

(3) If Guide's visual inspection of an Electroform Area Trench or Sump disclosed cracks, gaps, damaged areas, or other evidence of possible releases of hazardous wastes to soil, Guide shall submit to IDEM (with a copy to EPA) a closure plan for the relevant Electroform Area Trench or Sump which shall include a proposed schedule and proposed measures for addressing the possible soil contamination, and which shall be based upon the applicable principles outlined by IDEM's RISC User's Guide. Guide shall submit any closure plan required by this Subparagraph 12.d.(3) within three hundred (300) days of the Effective Date of this Consent Decree. Guide shall implement the closure plan, as approved by IDEM.

The Compliance Audit Report shall include a separate section describing all steps taken to comply with this Subparagraph 12.d, which shall list each Electroform Area Trench or Sump addressed under this Subparagraph 12.d. For each Electroform Area Trench or Sump that is not fully or partially covered by fixed Electroform Equipment as of the Lodging Date, Guide shall complete all tasks required by

Subparagraphs 12.d.(1) and 12.d.(2) as expeditiously as reasonably possible, but by no later than ninety (90) days of the Effective Date. For all other Electroform Area Trenches and Sumps, Guide shall complete all tasks required by Subparagraphs 12.d.(1) and 12.d.(2) as expeditiously as reasonably possible, but by no later than three hundred (300) days after the Effective Date.

e. Audit of Certain Areas Addressed Before the Lodging Date. If any piece of Plating Equipment or Plating Equipment Piping, Electroform Equipment or Electroform Equipment Piping, or WWTP Piping was decontaminated to remove all solid waste or other residue before the Lodging Date, Guide shall demonstrate that such decontamination occurred by including the following information in a separate section of the Compliance Audit Report: (i) all available information concerning the solid waste or residue removed, the decontamination process used, and the results achieved by the decontamination, and the results of any testing or sampling performed after the Lodging Date to confirm the results of the decontamination; or (ii) a certification of a registered professional engineer, independent of Guide or any Additional Covered Person, that the decontamination was sufficient to remove solid waste or other residue such that the final rinseate would have satisfied the final rinseate standards specified by Section 2.9.1.2 of IDEM's RISC User's Guide. The requirements of this Subparagraph 12.e shall be deemed met for any piece of Plating Equipment or Plating Equipment Piping, Electroform Equipment or Electroform Equipment Piping, or WWTP Piping identified in the Compliance Report unless: (i) the Plaintiffs determine that the Compliance Audit Report does not demonstrate that an adequate decontamination was performed; and (ii) the Plaintiffs, within one hundred eighty (180) days of their receipt of the Compliance Audit Report, reject the Compliance Audit report or disapprove the portion of the Compliance Audit Report addressing the relevant piece of

Plating Equipment or Plating Equipment Piping, Electroform Equipment or Electroform Equipment Piping, or WWTP Piping pursuant to Paragraph 41 (Review of Submissions).

13. This Consent Decree is neither a permit nor a modification of existing permits under any federal, state, or local law, and in no way relieves Guide of its responsibilities to comply with all applicable federal, state, and local laws and regulations. Nothing in this Section VII (Compliance Measures) shall limit any obligation pursuant to RCRA Section 3008(h), 42 U.S.C. § 6928(h), of the Defendant or the Additional Covered Persons to undertake corrective action or other response measures which may be necessary to protect human health or the environment due to a release of hazardous waste into the environment from the Facility.

VIII. PLAINTIFFS' COVENANTS NOT TO SUE AND EFFECT OF SETTLEMENT

14. Plaintiffs' Covenants Not To Sue Under CERCLA and Corresponding State Law. Except as specifically provided by Section IX (Reservations of Rights), the Plaintiffs covenant not to sue Guide for recovery of the State Costs, the DOI Assessment Costs, and the Covered Natural Resource Damages pursuant to CERCLA Section 107(a), 42 U.S.C. § 9607(a) or Section 311(f) of the CWA, 33 U.S.C. § 1321(f). Except as specifically provided by Section IX (Reservations of Rights), the State also covenants not to sue or take administrative action against Guide for recovery of the State Costs and the Covered Natural Resource Damages pursuant to Indiana Code § 13-25-4-8(a), Indiana Code § 13-14-10 et seq., Indiana Code § 14-22-10-6, Indiana Code § 34-19-1, Indiana Code § 13-14-2-6, or the common law of public nuisance, negligence, or negligent trespass. This covenant not to sue shall take effect upon the Effective Date of this Consent Decree. This covenant not to sue is conditioned upon the satisfactory performance by Guide of its obligations under

this Consent Decree. This covenant not to sue extends only to Guide and does not extend to any other person; provided, however, that this covenant not to sue (and the reservations thereto under Section IX (Reservations of Rights)) shall also extend to the Additional Covered Persons.

15. CERCLA Contribution Protection. The Parties agree, and by entering this Consent Decree this Court finds, that Guide is entitled, as of the Effective Date of this Consent Decree, to protection from contribution actions or claims as provided by Section 113(f)(2) of CERCLA, 42 U.S.C. § 9613(f)(2), for “matters addressed” in this Consent Decree. For the purpose of this Paragraph, the “matters addressed” in this Consent Decree are the State Costs, the DOI Assessment Costs, and the Covered Natural Resource Damages. The Additional Covered Persons also are entitled, as of the Effective Date of this Consent Decree, to protection from contribution actions or claims as provided by Section 113(f)(2) of CERCLA, 42 U.S.C. § 9613(f)(2), for “matters addressed” in this Consent Decree.

16. Satisfaction of Civil Liability for the Other Settled Violations. Except as specifically provided by Section IX (Reservations of Rights), satisfactory performance by Guide of all of its obligations under this Consent Decree shall fully satisfy all civil liability of Guide for the Other Settled Violations, and shall also satisfy any and all civil liability of the Additional Covered Persons for violations based upon the same laws and the same transactions and occurrences as the Other Settled Violations.

17. Effect of Completion of Compliance Audit Program. Except as specifically provided by Section IX (Reservations of Rights), satisfactory performance by Guide of all its obligations under Paragraph 12 (Compliance Audit Program) of this Consent Decree shall be deemed to satisfy the

requirements of EPA's Audit Policy with respect to the matters addressed by Paragraph 12, and shall fully satisfy all civil liability of Guide and the Additional Covered Persons for civil penalties under RCRA Section 3008(g), 42 U.S.C. § 6928(g), and corresponding State law, through the date of submission of the Compliance Audit Report required by Paragraph 12, for any violation of any of the following legal requirements which is disclosed in a portion of the Compliance Audit Report that is accepted by Plaintiffs, and which is based upon any unpermitted storage of hazardous wastes discovered in any Plating Equipment or Plating Equipment Piping, Electroform Equipment or Electroform Equipment Piping, WWTP Piping, or Electroform Area Trenches or Sumps addressed under Paragraph 12: 40 C.F.R. § 262.34; 326 IAC 3.1-7-1; 40 C.F.R. Parts 264, 265, and 270; 329 IAC 3.1-9-1 through 3.1-9-3; 329 IAC 3.1-10-1 through 3.1-10-3; and 329 IAC 3.1-13-1 through 3.1-13-20.

18. The provisions of Paragraph 14 (Plaintiffs' Covenants Not to Sue Under CERCLA and Corresponding State Law), Paragraph 16 (Satisfaction of Civil Liability for the Other Settled Violations), and Paragraph 17 (Effect of Completion of Compliance Audit Program) are conditioned upon the payment of all disbursements from the Court Registry Account provided for by Paragraph 6.b (Payments from the Court Registry Account) of this Consent Decree, and upon Plaintiffs' retention of such disbursements in payment of civil penalties, the State Costs, and the DOI Assessment Costs, and for funding river restoration projects, as provided by this Consent Decree.

IX. RESERVATIONS OF RIGHTS

19. General Reservations. The provisions of Paragraph 14 (Plaintiffs' Covenants Not to Sue Under CERCLA and Corresponding State Law), Paragraph 16 (Satisfaction of Civil Liability for the Other Settled Violations), and Paragraph 17 (Effect of Completion of Compliance Audit Program)

do not pertain to any matters other than those expressly specified therein. The Plaintiffs reserve, and this Consent Decree is without prejudice to, all rights against Guide and the Additional Covered Persons with respect to all matters not expressly included within Paragraph 14 (Plaintiffs' Covenants Not To Sue Under CERCLA and Corresponding State Law), Paragraph 16 (Satisfaction of Civil Liability for the Other Settled Violations), and Paragraph 17 (Effect of Completion of Compliance Audit Program). Notwithstanding any other provision of this Consent Decree, the Plaintiffs reserve all rights against Guide and the Additional Covered Persons with respect to:

- a. claims based on a failure by Guide to meet a requirement of this Consent Decree;
- b. liability for costs incurred or to be incurred by the Plaintiffs that are not within the definition of the State Costs or the DOI Assessment Costs;
- c. liability for damages for any injury to, destruction of, or loss of natural resources that is not within the definition of the Covered Natural Resource Damages, and for any natural resource damage assessment cost that are not within the definition of the State Costs or the DOI Assessment Costs;
- d. liability for injunctive relief or administrative order enforcement under CERCLA Section 106, 42 U.S.C. § 9606;
- e. liability for injunctive relief or administrative order enforcement under RCRA Section 3008(h), 42 U.S.C. § 6928(h), for corrective action or other response measures which may be necessary to protect human health or the environment due to a release of hazardous waste into the environment from the Facility;

f. liability for civil penalties or injunctive relief for violations of federal or state law that are not within the definition of the Other Settled Violations, except as expressly provided by Paragraph 17 (Effect of Completion of Compliance Audit Program); and

g. criminal liability.

20. Special Reservations Regarding Natural Resource Damages. Notwithstanding any other provision of this Consent Decree, the United States and the State reserve the right to institute proceedings against Guide and/or the Additional Covered Persons in this action or in a new action seeking recovery of Natural Resource Damages, based on: (i) conditions with respect to the White River Area, unknown to the Trustees as the date of lodging of this Consent Decree, that result in releases of hazardous substances, that contribute to injury to, destruction of, or loss of Natural Resources, or (ii) information received after the date of lodging of this Consent Decree which indicates that there is injury to, destruction of, or loss of Natural Resources of a type that was unknown to the Trustees at the date of lodging of this Consent Decree.

21. This Consent Decree does not limit the authority of the United States or the State to undertake any action in response to conditions which may present an imminent and substantial endangerment to public health, welfare, or the environment.

22. Nothing in this Consent Decree shall be construed to create any rights in, or grant any cause of action to, any person not a Party to this Consent Decree, except as expressly provided in Paragraph 14 (Plaintiffs' Covenants Not To Sue Under CERCLA and Corresponding State Law), Paragraph 15 (CERCLA Contribution Protection), Paragraph 16 (Satisfaction of Civil Liability for the Other Settled Violations), Paragraph 17 (Effect of Completion of Compliance Audit Program), and

Paragraph 27 (Waiver of Claims Against Other Persons). Each of the Parties expressly reserves any and all rights (including, but not limited to, any right to contribution), defenses, claims, demands, and causes of action which each Party may have with respect to any matter, transaction, or occurrence against any person not a Party hereto, except as expressly provided in Paragraph 14 (Plaintiffs' Covenants Not To Sue Under CERCLA and Corresponding State Law), Paragraph 16 (Satisfaction of Civil Liability for the Other Settled Violations), Paragraph 17 (Effect of Completion of Compliance Audit Program), and Paragraph 27 (Waiver of Claims Against Other Persons).

23. In any subsequent administrative or judicial proceeding initiated by the United States or the State for penalties, injunctive relief, recovery of response costs, recovery of natural resource damages, or other relief, Guide and the Additional Covered Persons shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, res judicata, collateral estoppel, issue preclusion, claim-splitting, or other defenses based upon any contention that the claims raised by the United States or the State in the subsequent proceeding were or should have been brought in the instant case; provided, however, that nothing in this Paragraph affects the enforceability of Paragraph 14 (Plaintiffs' Covenants Not to Sue Under CERCLA and Corresponding State Law), Paragraph 16 (Satisfaction of Civil Liability for the Other Settled Violations), or Paragraph 17 (Effect of Completion of Compliance Audit Program) of this Consent Decree.

24. Guide's entry into this Consent Decree does not constitute a legal admission of any facts alleged in the Plaintiffs' Complaints in this action or a legal admission of any civil liability to the Plaintiffs arising out of the transactions or occurrences alleged in the Plaintiffs' Complaints; provided, however, that nothing in this Paragraph shall be construed as a limitation upon or a denial of Guide's

obligation to comply fully with this Consent Decree.

X. COVENANTS BY GUIDE AND THE ADDITIONAL COVERED PERSONS

25. Covenants Not to Sue By Guide and the Additional Covered Persons. Guide and the Additional Covered Persons hereby covenant not to sue and agree not to assert any claims or causes of action against the United States or the State, or their contractors or employees, with respect to the State Costs, the DOI Assessment Costs, the Covered Natural Resource Damages, or this Consent Decree, including but not limited to:

a. any direct or indirect claim for reimbursement from the Hazardous Substance Superfund based on Sections 106(b)(2), 107, 111, 112, or 113 of CERCLA, 42 U.S.C. §§ 9606(b)(2), 9607, 9611, 9612, or 9613, or any other provision of law;

b. any claim arising out of response actions for which the State Costs were incurred; and

c. any claim against the United States or the State pursuant to Sections 107 and 113 of CERCLA, 42 U.S.C. §§ 9607 and 9613, relating to the State Costs, the DOI Assessment Costs, or the Covered Natural Resource Damages.

26. Nothing in this Consent Decree shall be deemed to constitute approval or preauthorization of a claim within the meaning of Section 111 of CERCLA, 42 U.S.C. § 9611, or 40 C.F.R. 300.700(d).

27. Waiver of Claims Against Other Persons. Guide and the Additional Covered Persons agree not to assert any claims and to waive all claims or causes of action that they may have against all other persons for all matters relating to the State Costs, the DOI Assessment Costs, and the Covered Natural Resource Damages, including for contribution; provided, however, that Guide and the

Additional Covered Persons reserve the right to assert and pursue all claims, causes of action, and defenses relating to the State Costs, the DOI Assessment Costs, and the Covered Natural Resource Damages against any person in the event such person first asserts, and for so long as such person pursues, any claim or cause of action against Guide or the Additional Covered Persons relating to the State Costs, the DOI Assessment Costs, and the Covered Natural Resource Damages. Nothing in this Paragraph shall operate to waive or release any claim or action by Guide or any Additional Covered Person under any contract of insurance.

XI. STIPULATED PENALTIES

28. Guide shall be liable to Plaintiffs for payment of the following stipulated civil penalties for noncompliance with the requirements of this Consent Decree occurring after the date of lodging of this Consent Decree:

- a. \$10,000 per day for each day of violation of Paragraph 11 (Discharge Prohibition) of this Consent Decree;
- b. \$1,000 per day for each day of violation of Paragraph 12 (Compliance Audit Program) of this Consent Decree; and
- c. \$1,000 per day for each day of violation for any other violation of this Consent Decree.

29. All stipulated penalties shall begin to accrue on the day after complete performance is due or the day noncompliance occurs, and shall continue to accrue through the day complete performance occurs or the date complete correction of noncompliance occurs. Stipulated penalties shall accrue regardless of whether Plaintiffs have made a demand for payment, but shall not be payable until a written demand for payment is made by Plaintiffs, which shall generally describe the noncompliance

for which stipulated penalties are demanded.

30. All stipulated penalties shall be due and payable to the Plaintiffs within 30 days of Guide's receipt from Plaintiffs of a demand for payment of the penalties. All payments of stipulated penalties under this Section shall be made as follows:

a. 50% of the stipulated penalty amount shall be paid by certified or cashier's check(s) made payable to the "Treasurer, United States of America," shall be tendered to the Financial Litigation Unit of the Office of the United States Attorney for the Southern District of Indiana, and shall be accompanied by a letter indicating that the payment is for stipulated penalties under this Consent Decree, and referencing the case name and civil action number, DOJ Case No. 90-5-2-1-07043, and Guide's name and address.

b. 50% of the stipulated penalty amount shall be paid by certified or cashier's check(s) made payable to "Cashier, Indiana Department of Environmental Management," shall be tendered to the Indiana Department of Environmental Management, Office of Legal Counsel, and shall be accompanied by a letter indicating that the payment is for stipulated penalties under this Consent Decree, and referencing the case name and civil action number, and Guide's name and address.

c. Copies of the transmittal letters and checks shall be sent to the United States and to the State in the manner provided by Section XIII (Notices and Submissions).

31. If Guide fails to pay stipulated penalties when due, Plaintiffs may institute proceedings to collect the penalties, as well as Interest. Guide shall pay Interest on the unpaid balance, which shall begin to accrue on the date of a demand for payment made by the Plaintiffs.

32. Nothing herein shall preclude the simultaneous accrual of penalties for separate

violations of this Consent Decree.

33. The payment of penalties shall not alter in any way Guide's obligation to complete the performance of any tasks required under this Consent Decree.

34. Nothing herein shall preclude the Plaintiffs from seeking additional legal or equitable relief for violation of this Consent Decree or applicable federal or state law, including but not limited to injunctive relief, and civil and criminal sanctions.

35. Notwithstanding any other provision of this Section, the Plaintiffs may, in their unreviewable discretion, waive any portion of stipulated penalties that have accrued pursuant to this Consent Decree.

XII. ACCESS TO INFORMATION AND DOCUMENT RETENTION

36. Commencing on the date of lodging of this Consent Decree, Guide agrees to provide the Plaintiffs and their representatives, including their contractors, access at all reasonable times to the Facility, and to allow such representatives to move about, without restriction, for the purposes of conducting any activity related to this Consent Decree, including but not limited to monitoring implementation, verifying any data or information submitted to the Plaintiffs under this Consent Decree, and assessing Guide's compliance with this Consent Decree. This right of access is in addition to, and shall not limit, any access rights afforded by any law or regulation.

37. Until four (4) years after the entry of this Consent Decree, Guide shall preserve and retain all records and documents now in its possession or control, or which come into its possession or control, that relate in any manner to: (i) discharges from the wastewater treatment plant at the Facility that occurred in December 1999 and/or January 2000; (ii) water quality or the condition of Natural

Resources in the White River Area in December 1999 and/or January 2000; (iii) the claims alleged in the Complaints; or (iv) Guide's compliance with this Consent Decree.

38. Guide shall provide to Plaintiffs, upon request, copies of all documents and information within its possession or control (or that of their contractors or agents) relating to compliance with this Consent Decree. Guide shall also make available to Plaintiffs its employees, agents, or representatives with knowledge of relevant facts concerning its compliance with this Consent Decree.

a. Guide may assert business confidentiality claims covering part or all of the documents or information submitted to the Plaintiffs under this Consent Decree, to the extent permitted by and in accordance with 40 C.F.R. Part 2 (with respect to the United States) and in accordance with applicable state law (with respect to the State). For documents or information determined to be confidential by Plaintiffs, the United States will afford the documents or information confidentiality protection as provided by 40 C.F.R. Part 2, Subpart B and the State will afford the documents or information confidentiality protection as provided by applicable state law. If no claim of confidentiality accompanies documents or information when they are submitted to the Plaintiffs, the public may be given access to such documents or information without further notice in accordance with 40 C.F.R. Part 2, Subpart B or applicable state law.

b. Guide may assert that certain documents and information are privileged under the attorney-client privilege or any other privilege recognized by law. If Guide asserts such a privilege in lieu of providing documents, Guide shall provide the Plaintiffs with the following: (i) the title of the document; (ii) the date of the document; (iii) the name and title of the author of the document; (iv) the name and title of each addressee and recipient; (v) a description of the contents of the document; and

(vi) the privilege asserted by Guide. No documents or information created or generated pursuant to the requirements of the Consent Decree shall be withheld on the grounds that they are privileged.

XIII. NOTICES AND SUBMISSIONS

39. Whenever, under the terms of this Consent Decree, written notice is required to be given or a plan, report or other submission is required to be sent by one Party to another, it shall be directed to the individuals at the addresses specified below, unless those individuals or their successors give notice of a change to the other Party in writing. All notices and submissions shall be considered effective upon receipt, unless otherwise provided. Written notice as specified herein shall constitute complete satisfaction of any written notice requirement of the Consent Decree.

As to the United States:

For the Department of Justice:

Chief, Environmental Enforcement Section (DJ # 90-5-2-1-07043)
Environment and Natural Resources Division
U.S. Department of Justice
P.O. Box 7611
Washington, D.C. 20044-7611

For EPA:

Regional Counsel
U.S. Environmental Protection Agency
Region 5
77 W. Jackson Blvd.
Chicago, IL 60604

For DOI:

Office of the Solicitor
Division of Parks and Wildlife
U.S. Department of the Interior
1849 C Street, N.W.
Washington, DC 20240

As to the State:

For the Indiana Attorney General's Office:

Indiana Attorney General's Office
ATTN: James Joven, Deputy Attorney General
Indiana Government Center South
402 West Washington Street, Fifth Floor
Indianapolis, IN 46204

For IDEM:

Indiana Department of Environmental Management
Office of Legal Counsel
ATTN: Elizabeth Admire, Program Counsel Section Chief
100 N. Senate Avenue
P.O. Box 6015
Indianapolis, IN 46206-6015

For IDNR:

Indiana Department of Natural Resources
ATTN: Carrie Doehrmann, Chief of Staff
DNR, Indiana Government Center South, Room 256C
402 West Washington Street
Indianapolis, IN 46204

As to Guide:

Phillip R. Scaletta
Ice Miller
One American Square
Box 82001
Indianapolis, IN 46282-0002

For informational purposes, copies of any written notice, plan, report, or other submission under this Paragraph shall be sent to the Additional Covered Persons, addressed to the individual identified on each Additional Covered Person's signature page accompanying this Consent Decree.

40. Certification of Notices and Submissions. All notices and submissions required by this Consent Decree to be submitted by Guide shall be certified by a responsible corporate official of Guide or an Additional Covered Person, and accompanied by the following certification:

I certify that the information contained in or accompanying this submission is true, accurate and complete. This certification is based on my personal preparation, review, or analysis of the submission, and/or supervision of persons who, acting on my direct instructions, made the verification that the submitted information is true, accurate and complete.

41. Review of Submissions. Following receipt of any plan, report, or other submission by Guide under this Consent Decree, the Plaintiffs may do one of the following, in writing: (i) accept all of or any portion of the submission; (ii) disapprove all of or any portion of the submission, notifying Guide of deficiencies in the submission and granting Guide additional time within which to correct the deficiencies; or (iii) reject all of or any portion of the submission.

XIV. PUBLIC COMMENT

42. This Consent Decree shall be lodged with the Court for a period of not less than thirty (30) days, for public notice and comment in accordance with the provisions of 28 C.F.R. § 50.7. The United States reserves the right to withdraw or withhold its consent if the comments received disclose facts or considerations which indicate that the Consent Decree is inappropriate, improper, or inadequate.

XV. EFFECTIVE DATE AND RETENTION OF JURISDICTION

43. This Consent Decree shall take effect upon entry by the Court; provided, however, that Guide shall be bound upon the lodging of this Consent Decree to comply with obligations of Guide specified in this Consent Decree as accruing upon lodging.

44. The Court shall retain jurisdiction to modify and enforce the terms and conditions of this Consent Decree and to resolve disputes arising hereunder as may be necessary or appropriate for the construction or execution of this Consent Decree.

XVI. CONSENT DECREE MODIFICATIONS

45. Any material modification of this Consent Decree shall be made by agreement of the Parties to this Consent Decree and in writing, and shall not take effect unless approved by the Court. Any non-material modification of this Decree shall be made by agreement of the Parties to this Consent Decree and in writing, and shall not take effect until filed with the Court. Nothing in this Consent Decree shall be deemed to alter the Court's power to enforce, supervise, or approve modifications to this Consent Decree.

46. The provisions of this Consent Decree are not severable. The Parties' consent hereto is conditioned upon the entry of the Consent Decree in its entirety without modification, addition, or

deletion except as agreed to by the Parties.

47. Unanticipated or increased costs or expenses associated with the implementation of actions called for by this Consent Decree and economic hardship or changed financial circumstances shall not serve as a basis for modifications of this Consent Decree.

XVII. SIGNATORIES/SERVICE

48. The undersigned representatives of Guide, the State, and the United States each certify that he or she is fully authorized to enter into the terms and conditions of this Consent Decree and to execute and legally bind such Party to this document.

49. Guide hereby agrees not to oppose entry of this Consent Decree by this Court or to challenge any provision of this Consent Decree unless the United States has notified Guide in writing that it no longer supports entry of the Consent Decree.

50. Guide shall identify, on the attached signature page, the name, address and telephone number of an agent who is authorized to accept service of process by mail on behalf of Guide with respect to all matters arising under or relating to this Consent Decree. Guide hereby agrees to accept service in that manner and to waive the formal service requirements set forth in Rule 4 of the Federal Rules of Civil Procedure and any applicable local rules of this Court, including but not limited to service of a summons.

XVIII. FINAL JUDGMENT

51. Upon approval and entry of this Consent Decree by the Court, this Consent Decree shall constitute a final judgment between and among the United States, the State, and Guide. The Court finds that there is no reason for delay and therefore enters this judgment as a final judgment under

Fed. R. Civ. P. 54.

SO ORDERED THIS _____ DAY OF _____, _____.

United States District Judge

THE UNDERSIGNED PARTY enters into this Consent Decree in the above-captioned action:

FOR THE UNITED STATES OF AMERICA

Date: _____

JOHN C. CRUDEN
Acting Assistant Attorney General
Environment and Natural Resources Division
U.S. Department of Justice
Washington, DC 20530

Date: _____

ALAN S. TENENBAUM, Senior Counsel
RANDALL M. STONE, Trial Attorney
Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice
P.O. Box 7611
Washington, DC 20044-7611

TIMOTHY M. MORRISON
United States Attorney

THOMAS E. KIEPER
Assistant United States Attorney
Southern District of Indiana
10 West Market Street, Suite 2100
Indianapolis, IN 46204-3048

THE UNDERSIGNED PARTY enters into this Consent Decree in the above-captioned action:

Date: _____

DAVID A. ULLRICH
Acting Regional Administrator
U.S. Environmental Protection Agency, Region 5
77 W. Jackson Boulevard
Chicago, IL 60604

Date: _____

NICOLE CANTELLO
Associate Regional Counsel
U.S. Environmental Protection Agency, Region 5
77 W. Jackson Boulevard
Chicago, IL 60604

THE UNDERSIGNED PARTY enters into this Consent Decree in the above-captioned action:

Date: _____

SYLVIA LOWRANCE

Acting Assistant Administrator
for Enforcement and Compliance Assurance
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20004

THE UNDERSIGNED PARTY enters into this Consent Decree in the above-captioned action:

FOR THE STATE OF INDIANA

INDIANA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT

INDIANA DEPARTMENT OF
NATURAL RESOURCES

By: _____
Lori F. Kaplan, Commissioner

By: _____
Larry D. Macklin, Director

INDIANA NATURAL RESOURCES
CO-TRUSTEES

By: _____
Elizabeth Admire
Program Counsel Section Chief
Indiana Department of Environmental
Management

By: _____
Carrie Doehrmann
Chief of Staff and General Counsel
Indiana Department of Natural Resources

Date: _____

By: _____
Linda L. Pence
Thomas A. Barnard
William C. Wagner
SOMMER & BARNARD, PC
111 Monument Circle, Suite 4000
Indianapolis, IN 46204
(317) 630-4000
Attorneys for Plaintiff State of Indiana

Approved as to form and legality:

Date: _____

By: _____
Steve Carter
Indiana Attorney General
Indiana Government Center South
402 West Washington Street, Fifth Floor

THE UNDERSIGNED PARTY enters into this Consent Decree in the above-captioned action:
Indianapolis, IN 46204

THE UNDERSIGNED PARTY enters into this Consent Decree in the above-captioned action:

FOR DEFENDANT GUIDE CORPORATION

Date: _____

Signature

Typed Name: _____

Title: _____

Address: _____

Agent Authorized to Accept Service on Behalf of Above-Signed Party:

Typed Name: _____

Title: _____

Address: _____

THE UNDERSIGNED ADDITIONAL COVERED PERSON hereby assents to the Covenants set forth in Section X (Covenants by Guide and the Additional Covered Persons) of this Consent Decree:

FOR GENERAL MOTORS CORPORATION

Date: _____

Signature

Typed Name: _____

Title: _____

Address: _____

THE UNDERSIGNED ADDITIONAL COVERED PERSON hereby assents to the Covenants set forth in Section X (Covenants by Guide and the Additional Covered Persons) of this Consent Decree:

FOR LIGHTSOURCE PARENT CORPORATION

Date: _____

Signature

Typed Name: _____

Title: _____

Address: _____

THE UNDERSIGNED ADDITIONAL COVERED PERSON hereby assents to the Covenants set forth in Section X (Covenants by Guide and the Additional Covered Persons) of this Consent Decree:

FOR VEHICLE LIGHTING, INC.

Date: _____

Signature

Typed Name: _____

Title: _____

Address: _____

THE UNDERSIGNED ADDITIONAL COVERED PERSON hereby assents to the Covenants set forth in Section X (Covenants by Guide and the Additional Covered Persons) of this Consent Decree:

FOR GUIDE INDIANA, LLC

Date: _____

Signature

Typed Name: _____

Title: _____

Address: _____

Consent Decree Appendix A:
Initial List of Conservation and Recreational Enhancement Projects

Appendix A

Conservation and Natural Resource Restoration Projects To be Funded by the White River Restoration Funds

I. Introduction

The following is a list of proposed conservation and natural resource restoration projects the Indiana Natural Resource Trustees, in connection with significant input from the Indiana Department of Environmental Management's Office of Land Quality and several branches of the Indiana Department of Natural Resources ("DNR"), including the Division of Fish and Wildlife, the Division of Land Acquisition, the Division of Nature Preserves, and the Division of Soil Conservation, have developed based in part upon projects identified by several local government authorities, including the Soil and Water Conservation Districts of Madison County and Hamilton County, Hamilton County Parks, Noblesville Parks, and Indy Parks. The projects identified in this Appendix are examples of the types of conservation and natural resource restoration projects that could be developed and paid for, in part or in total, with money from the White River Restoration Funds. These projects are intended to compensate the State of Indiana and its citizens, through the Natural Resource Trustees, for damages resulting to the stretch of the West Fork of the White River from Anderson past downtown Indianapolis affected by the December 1999 fish kill.

These projects are in addition to, and do not include, the fish restocking efforts that will also be conducted as needed based upon DNR's future sampling and monitoring efforts related to the redevelopment of the fish community in the affected stretch of White River. To date, DNR has stocked 540,598 fish in the White River. In the Spring of 2000, DNR biologists stocked 63,000 channel catfish fingerlings and 1,937 adult game fish, which included channel catfish, flathead catfish, largemouth bass, smallmouth bass, crappie, bluegill, and redear. In the Fall of 2000, DNR biologists stocked 475,661 fish in the White River, which included channel catfish, flathead catfish, largemouth bass, smallmouth bass, rock bass, bluegill, and white crappie. The restocked fish were placed in the river in habitats

consistent with the preferences of the various species. Additionally, wild fish have begun to move into the affected area.

Continued detailed studies of the river ecosystem by DNR will help define the long-term stocking and other fish management needs. Currently, DNR has planned to conduct monitoring and/or sampling of the fish community to measure fish distribution, abundance, and species mix at a minimum of 17 locations along the affected stretch of the White River in the years 2001, 2002, 2003, and 2004. Additionally, DNR has planned to conduct angler surveys between April and October in the years 2002 and 2004 to measure the species and sizes of fish caught and harvested or released as well recreational boating use.

The conservation and natural resource restoration projects have two major components. First, restoration projects were identified based upon the need to improve and restore the fish habitat in this stretch of the White River. The goal was to return the fish habitat to baseline, which was the condition of this stretch of the White River prior to the fish kill, in order to promote and foster the development of the fish community, which is being replenished by restocking efforts, the growth of offspring from restocked fish, and the natural migration of fish from tributaries and other parts of the White River.

Second, the conservation and natural resource restoration projects were identified based upon the need to enhance and protect properties with valuable natural resources through property acquisition or protective easement. Protection of these properties will ensure the preservation of their ecological significance to the White River watershed and will ensure the ability of the citizens of Indiana to enjoy these areas in the future. Third, restoration projects were identified based upon the need to enhance and preserve certain property adjacent to the White River, which will foster and promote a better fishing habitat and cause less erosion and pollution runoff into the White River. These projects are

intended to rehabilitate the White River, thereby enhancing its quality and value for conservation and recreational purposes, and will also allow the citizens of Indiana enhanced access to the White River where they can fish, boat, or simply enjoy its natural beauty.

II. Projects Intended to Improve and Restore the Fish Habitat

A. Acquisition of Natural Areas

Previously, the White River ran through a natural landscape of upland and bottomland hardwood forests, interspersed with occasional wetland marshes and seeps. Most of the forests have long since been cleared for agricultural uses, and cities and towns have been established at intervals along the river's length. The elimination of most of these hardwood forests has led to an increased amount of silt entering the White River with resulting degradation of the river's water quality, an increased amount of flooding, and an increased water velocity in the river during times of flooding. Along with increased water velocity comes increased stream cutting, which results in increased erosion. Accordingly, the habitat for a number of bird, reptile, amphibian, and mammal species has been radically reduced.

However, some "natural areas," which are small patches of bottomland hardwood forests, sometimes associated with upland forests and steep river bluffs, remain in Madison, Hamilton, and Marion counties. These "natural areas" are blocks of land that contribute significantly to the ecological qualities of the White River. In many cases, the natural areas include upland areas necessary to the life cycle of vertebrates and invertebrates that need and use the river. These natural areas function as reservoirs of biological diversity, and as "recharge" areas for flora and fauna that help repopulate the more disturbed parts of the riverine environment. Also, natural areas sometimes function as hydrological recharge areas because they hold and filter water, releasing water over time. These areas

also serve as a seed source for native tree species, including oaks and hickories. These trees buffer the White River, stabilizing the riverbank and providing a shaded environment, which is very important to the river's fishery as many fish species choose to locate in shaded areas during hot summer months. Without these areas, much of the river's remaining biological diversity would be lost. More importantly, some of these natural areas are at critical locations; such as at junctures of major tributaries to the White River and some have significant frontage along the White River. Acquisition of some of these critical natural areas in Madison, Hamilton, and Marion counties will help guarantee a successful river restoration and help guarantee its subsequent stability.

Several tracts of land near the White River are natural areas in a somewhat degraded condition. Some of these tracts of land are owned by local parks systems. These areas could be restored by eliminating the nonnative species, for example Amur Honeysuckles, which occupy the space needed by the species that were originally present, such as oaks and hickories, and then restoring the native bottomland hardwood tree species and native wildflowers.

B. Riverbank Buffer Strips

The Trustees propose that one of the restoration projects could be to acquire from willing participants, and establish, conservation buffer strips, also known as filter strips, along effected areas of the White River in Madison and Hamilton Counties. A conservation buffer strip is an area of land or strip of land adjacent to the river, which will remain privately owned, but placed in a conservation easement as provided under Indiana Code Section 32-5-2.6-1. The purpose of the buffer strips will be to intercept and trap sediment, organics, fertilizers, pesticides, and other pollutants before they are carried into the river by rain runoff or other causes. These buffer strips will enhance wildlife habitat, rehabilitate the White River, improve water quality, and enrich the aesthetics near the White River.

In particular, the Trustees envision that the buffer strips would be 60 to 100 feet wide and could be established along the bank of the White River in the effected areas and along major tributaries to the White River in Madison and Hamilton Counties. Buffers may either be established as woody vegetation, grass cover, or a combination of both. The establishment of buffers will benefit the White River's recovery and stability in the future. The Trustees specifically envision the planting of riparian forest buffer, which is riverside vegetation consisting of trees, shrubs, and grasses that can intercept pollutants from both surface and subsurface water before they reach the White River. Additional consideration may be given to various riverbank protection measures for site-specific use, such as "soft" armoring with vegetation through bio-engineered stabilization measures. Buffers are most effective when they are used in combination with other conservation measures as part of a planned conservation system.

The Trustees believe that it is important to establish buffer strips along the White River and its tributaries in order to reduce the amount of sediment entering into the White River. When sediment enters the White River, the sediment can be a medium that carries other pollutants such as nutrients, pesticides, fertilizers, *E. coli*, and metals into the river. The sediment can also cover otherwise valuable gravel streambeds. Many fish and aquatic insects rely on gravel streambeds for habitat, including hiding places and spawning sites.

Similarly, sediment often carries with it nutrients that in turn degrade water quality. For example, algae can result from too many nutrients entering into the river. Algae, like land dwelling plants, are productive when nutrients such as phosphorus and nitrogen are readily available. A sudden growth of algae can result from large inputs of nutrients, and the algae will eventually die and settle to the bottom of the riverbed where it will be decomposed by other organisms that use up oxygen in the

process. This depletion of oxygen in the river can be an indirect result of increased nutrients in the river. Such oxygen depletion can have a dramatic effect on all river organisms. Also, low oxygen levels can result in a lower quality fish, mussel, and insect community, as well as large-scale mortality when the input of sediment carrying nutrients is severe. Such a surge of nutrients is common after storm events, especially when runoff travels across disturbed landscapes. Buffer strips can reduce and slow the surge of nutrients and other pollutants before they get into the river. Vegetated buffer strips aid in trapping the soil on land and allows terrestrial plants to take up the nutrients before they are carried to the river. There are many sources of nutrients including fertilizers, animal and human wastes, and lawn clippings.

Establishing buffer strips along the White River and its tributaries would offer habitat enhancement for fish and wildlife. Specifically, buffer strips offer increased cover for wildlife, additional shade over the river and its tributaries resulting in lower water temperatures, and additional vegetation food sources for wildlife. As an example, during hot summer months, certain species of fish such as smallmouth bass and bluegill move to cool shaded areas of the river in order to stay out of heated environments.

Buffer strips would also minimize soil erosion into the river improving water quality and enabling quicker restoration of the river's aquatic diversity and fishery. In addition, several spots of severe riverbank erosion could be stabilized and vegetated. These corrective projects would eliminate chronic sources of soil erosion and riverbank instability.

C. Town Run South Restoration

Proposed restoration for this site could include the removal of invasive exotic plant species, such as the shrub Amur Honeysuckle. Currently, Amur Honeysuckle is inundating the 20-acre riparian wooded tract of Town Run South. Such invasive exotic species, like the Amur Honeysuckle,

aggressively take over a forested area and inhibit the regeneration of native species. In particular, the Amur Honeysuckle will leaf-out sooner than many native species, and out-compete native species for sunlight. These invasive plant species are detrimental to the health of a forest and river corridor because they interfere with natural succession. Over time, with natural succession and inhibited regeneration of native tree species, these invasive species will prevent the regeneration of replacement trees. Therefore, the removal of invasive exotic plant species is a necessary restoration procedure to improve or preserve the current level of natural biotic diversity.

The second potential restorative measure would be to plant a 20-acre field with native prairie species, including mixed tallgrass prairie seeding. Restoration of this open meadow area would result in increased recreational opportunities for fishing in the oxbow quarry area, and would provide excellent bird watching opportunities given the access to water. The dense and deep-rooted biomass of prairie seeding would help rebuild the soil and improve the capacity of the land to filter rainwater.

D. Marrott Park Restoration

Jointly managed by DNR's Division of Nature Preserves and Indy Parks, Marrott Park Woods Nature Preserve is one of four state-dedicated nature preserves in the Indy Parks system. A potential restoration project could consist of improving approximately 43 acres of riparian woods in Marrott Park Woods Natural Preserve that buffers both the White River and Williams Creek. The Trustees envision restoration efforts that would include planting native trees and removing invasive exotic plants, such as thick infestations of Amur Honeysuckle. This restoration is critical if the area is to be a home to native flora in the future.

II. Projects Intended to Enhance Properties with Valuable Natural Resources Through Property Acquisition and Improvements to Existing Access Sites

Several key projects could be undertaken to improve public opportunities for access to the White River in Madison, Hamilton, and Marion counties. In response to the lost use suffered as a result of the fish kill, these projects would be intended to improve and increase opportunities for Indiana citizens to access the White River for boating, canoeing, kayaking, fishing, wildlife viewing, photography, sightseeing, and other related river uses. In some cases, new public access sites would be created through land acquisition and development. In other cases, existing public facilities would be upgraded or expanded to better meet public needs for recreational use of the river.

A. New Public Access Sites

The only existing DNR public access site on the White River between Anderson and Indianapolis is a thirty (30) foot concrete double-wide boat-launching ramp in Forest Park in Noblesville. Constructed by the DNR, this site is maintained by the Noblesville Parks Department. Additionally, there are no developed launching facilities on public-owned lands in Madison County, and the current launching facilities in Hamilton County and Marion County are inadequate to meet public needs. Furthermore, the existing public sites are not uniformly distributed along the river, which results in heavy concentrations of recreational users in certain areas while limiting public access in other stretches of the White River. This not only makes access to some parts of the river difficult, but it also tends to overload existing public facilities during peak use times. Private access to the river from individual property owners, privately operated campgrounds, and homeowner groups exists, but is not available to the general public.

The Trustees envision that as many as five new publicly owned access sites could be acquired and developed along the White River as part of the conservation and natural resource restoration projects funded with money from the White River Restoration Funds. In particular, there is a need for

suitable access in Madison County and Hamilton County for the launching of canoes and small boats. New access sites could consist of one to two acres of property acquired from willing sellers. The development of the sites would likely involve site grading and selective tree removal if necessary, construction of graveled parking areas, ADA¹ accessibility and reserved parking, entrance roads, hard-packed carry-on access points at the river, and appropriate signage. Depending on the availability of land, sites could be targeted at locations accessible by public roadways, but located along river stretches currently lacking public access. This effort would be aimed at “filling in the gaps” on public canoe and small boat access to the river.

Where river width and depth are suitable, there would also be an effort to meet the needs for launching trailered boats. Potential opportunities for launching trailered boats on the White River exist in southern Hamilton County and northern Marion County. Again, acquisition would come through willing sellers. These sites would be similar in size to those described for canoe launches. Differences would include a concrete launching ramp, wheelchair-accessible loading ramp, and possibly other support facilities such as public restrooms and a courtesy dock. Depending on the location, special fencing and/or landscaping needs may also exist.

B. Upgrading and Expansion of Existing Public Access Facilities

City and county-owned lands bordering the White River in Hamilton County and Marion County currently provide some pedestrian, canoe, and boat access to the White River. However, at some established parks and park-controlled lands, adequate access facilities are undeveloped or in need of upgrade or repair. Working in partnership with these local park departments, DNR proposes to address access needs at selected locations.

¹Americans with Disabilities Act of 1990, 42 U.S.C. § 12101, *et seq.*

As an example, at Broad Ripple Park in Marion County, boat access to the large pool formed by the Broad Ripple Dam is provided by a concrete boat ramp and parking area. However, the ramp is in need of upgrading to increase accessibility, safety, and on-site erosion control. The water end of the ramp has a two to three foot drop-off where the river current has undercut the concrete. This proposed upgrade would provide for added public safety and increased use.

The dam just downstream from the ramp at Broad Ripple Park could use improved safety signage and a cabled warning buoy system. This project would provide for added public safety and improved use.

The parking lot adjoining the boat ramp is situated on high ground beside and above the ramp. Drainage from rainwater flows off the parking lot and is cutting down through the earthen embankment to the boat ramp. This is causing severe erosion and is washing sediment into the river. This problem would be corrected through new drainage control measures installed at this site.

The floating dock adjacent to the boat ramp is in need of replacement. Installation of a new courtesy dock would provide a proper and safe means for boaters to tie off watercraft when entering or exiting this site.

Additionally, this steep, long ramp is not handicap accessible and would be impractical to retrofit for this purpose. However, Indy Parks has identified a location at the north end of the park for a handicap accessible fishing platform and observation deck. This potential project would be designed to decrease bank erosion with plantings of native vegetation. An asphalt trail would be constructed to connect the existing ADA-accessible trail from the parking lot with this site. This project could provide persons with disabilities excellent opportunities to access and enjoy the White River.

At the Clare Dam in Hamilton County, a public canoe portage exists at the west end of the dam on property owned by Cinergy. This facility consists of a metal grated walkway around the dam and is accessible only to canoeists entering this site from the water. Fencing prevents access from the adjacent public roadway. Currently, there is no available public parking and fencing prevents this site from being accessible to canoeists that might like to launch at this location. Improvements to this portage could be made for parking, direct access, and carry-in features to significantly increase the value and use of this site for public use.

Finally, at a Hamilton County owned park near Strawtown, an access to White River could be developed that would provide boat access and increased fishing opportunities. These improvements are examples of the needs and opportunities to improve the accessibility to the White River and safety of some existing public access facilities. As described, there would also be efforts made to reduce and control erosion problems where present in conjunction with these projects.

IV. Conclusion

The Natural Resource Trustees believe that the conservation and natural resource restoration projects previously described would have a direct and positive impact to rehabilitate the wildlife habitat along the affected stretch of the White River, and enhance and protect properties with valuable natural resources adjacent to the White River through acquisition and protective easement. Additionally, the Trustees believe that the acquisition and establishment of conservation buffer strips previously described along the White River and its tributaries in Madison County and Hamilton County would be one of the most significant, pro-active environmental protection and preservation projects of its kind in the United States guaranteeing that this natural resource will be available for Indiana's future generations.

Consent Decree Appendix B:
List of Plating Equipment Components to be Addressed Under Paragraph 12

352 Plating System GL 34467 (Bays M31-M37 and N31-N37)

All Associated Equipment

- Various industrial filters
- Various Fulflo filters
- Various heat exchangers, water cooling equipment and air scrubbers
- Various holding tanks
- Various pumps

1002 Plating System - GL34462 and GL 34953 (Bays H38-H43 and J38-J43)

All Associated Equipment

- 2 Corning evaporators GL 34671 and GL 34672
- Various bag filters
- Various Fulflo filters
- Various heat exchangers and air scrubbers
- Various holding tanks (including GL 34674 and GL 34675)
- Various pumps

1002 Plating System-South End (Bays H44-J44 and M30)

All Associated Equipment

- Various industrial filters
- Various heat exchangers and air scrubbers

Rack Strip Area (Bays M33-M35)

All Associated Equipment

- Various tanks, tank cages and cabinets
 - Various air scrubbers and heat equipment
- Various pumps

Chrome Recovery Area (Bays J42-J43 and K42-K43)

All Associated Equipment

- 2 Corning evaporators, GL 42135 and GL 32412
- Various holding tanks
- Various pumps

Nickel Recovery and Nickel/Copper Treatment Area (Bays M42-M43 and N42-N43)

All Associated Equipment

- 1 nickel sludge press, GL 33498
- Various industrial filters
- Various holding tanks (including GL 10308, GL 10309 and GL 10310)

Consent Decree Appendix C:

List of Electroform Equipment Components to be Addressed Under Paragraph 12

Electroform Plating System GL 41898 (Bays A45, B45 and C45)

All Associated Equipment

- Various holding tanks
- Various air scrubbers
- Various pumps

Consent Decree Appendix D:
RISC User's Guide Sections 2.6.1.1 and 2.9.1.2